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Attorney's Docket No.: 13816-003001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Thomas E. Hamilton et al.      Art Unit : 2162  
Serial No. : 10/066,156      Examiner :  
Filed : February 1, 2002  
Title : TRANSACTION BASED PACKET SWITCHED DATA SERVICES ON A  
WIRELESS NETWORK

Commissioner for Patents  
Washington, D.C. 20231

RECEIVED

MAY 14 2002

DECLARATION UNDER 37 CFR 1.47(a) AS TO JOINT INVENTOR, SIMON CAVENETT

OFFICE OF PETITIONS

I, Karen B. Lacerda, having firsthand knowledge of the facts below, declare the following with respect to refusal by the joint inventor, Simon Cavenett, to join in the above-captioned application for patent:

1. On February 15, 2002, I sent a letter to Mr. Cavenett reporting that we have filed the patent application relative to the above-captioned matter with the U.S. Patent and Trademark Office. I also enclosed a copy of the application along with a Combined Declaration and Power of Attorney and an Assignment asking for Mr. Cavenett's signature. A copy of this letter sent to Mr. Cavenett reporting the patent application as filed is attached hereto as Exhibit A.

2. On February 15, 2002, I sent out another letter to Mr. Cavenett enclosing a revised Combined Declaration and Power of Attorney and Assignment to be signed because the original set of documents I sent him had the incorrect title of the invention. I also enclosed a self-addressed, stamped envelope for the return of these documents. A copy of this letter sent to Mr. Cavenett requesting the signed documents is attached hereto at Exhibit B.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, Washington, D.C. 20231.

Date of Deposit

April 26, 2002

Signature

Karen Lacerda

Typed or Printed Name of Person Signing Certificate

Karen Lacerda

3. On April 4, 2002, I sent a certified letter as my second request for these documents. According to the certified mail postcard, it appears that Mr. Cavenett signed for this piece of mail on April 9, 2002, further indicating that he received these documents.

A copy of the letter as a second request for the signed documents sent to Mr. Cavenett, along with the Certified Mail Receipt, bearing the postmark of the U.S. Postal Service Fort Point Station, dated April 4, 2002, with the address listed above, is attached hereto as Exhibit C.

4. On April 16, 2001, we received correspondence from Mr. Cavenett indicating it will cost \$40,000.00 for his share in contributing to the completion of the patent application filings i.e. signing the declaration and assignment documents that he is obligated to do under his then current signed employment agreement. This letter is further evidence that receipt of the documents has been acknowledged and he still unwilling to sign them which is against the terms of his then current signed employment agreement with Avian Communications. A copy of this correspondence from Mr. Cavenett is attached hereto as Exhibit D, and a copy of Mr. Cavenett's then current signed Employment Agreement is attached hereto as Exhibit E.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that those statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: April 26, 2002

Karen B. Lacerda  
Karen B. Lacerda

Please direct any correspondence concerning this declaration to:

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